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Situation of human rights in Rwanda

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, pursuant to Economic and Social Council decision 1998/266 of 30 July 1998, the report of the Special Representative of the Commission on Human Rights on the situation of human rights in Rwanda.

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Annex

Report on the situation of human rights in Rwanda prepared by the Special Representative of the Commission on Human Rights pursuant to Economic and Social Council decision 1998/266 of 30 July 1998

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I. Mandate

1. The present report is submitted pursuant to Commission on Human Rights resolution 1998/69, in which the Commission extended the mandate of the Special Representative, Mr. Michel Moussalli, for a further year and requested him to report to the General Assembly at its fifty-third session in accordance with his mandate. In paragraph 30 of the resolution it is stipulated that the mandate of the Special Representative is to make recommendations on how to improve the human rights situation in Rwanda, to facilitate the creation and effective functioning of an independent national human rights commission in Rwanda, and further to make recommendations on situations in which technical assistance to the Government of Rwanda in the field of human rights may be appropriate. Reference should also be made to paragraph 28 of the resolution, in which the Commission called for close consultation between the Special Representative and the Government of Rwanda regarding the functioning of the future national human rights commission.

2. The Economic and Social Council took note of the resolution in its decision 1998/266, extending for a further year the mandate of the Special Representative.

II. Missions of the Special Representative

3. Following his appointment in June 1997 as Special Representative of the Commission on Human Rights, Mr. Moussalli submitted his first reports on the human rights situation in Rwanda to the General Assembly at its fifty-second session (A/52/522 of 22 October 1997) and to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/60 of 6 February 1998).

4. In the discharge of his renewed mandate and in order to follow up on his observations and recommendations, as articulated in his last report to the Commission on Human Rights, the Special Representative undertook two missions to Rwanda, from 8 to 15 June and from 31 August to 7 September 1998. The dates of the two missions were chosen in consultation with the Permanent Representative of Rwanda to the United Nations Office at Geneva.

5. The Office of the High Commissioner for Human Rights was able to second the Desk Officer responsible for Rwanda to accompany and assist the Special Representative during his visit to Rwanda from 8 to 15 June. The Danish Centre for Human Rights, in spite of the very short notice given, was able to second one of its human rights research and development analysts to accompany and assist the Special Representative during his visit to Rwanda from 31 August to 7 September. The analyst remained a few additional days in Kigali in order to obtain more information before coming to Geneva to assist in the preparation of the report. The Special Representative is most grateful to the Danish Centre for Human Rights for supporting him in this matter.

6. The Special Representative was particularly interested in reviewing with the Government of Rwanda the progress achieved in the establishment and functioning of the National Human Rights Commission following the discussions he had had on this subject with all Government officials during his previous visits to Rwanda, discussions which were summarized in his report to the Commission on Human Rights (E/CN.4/1998/60, para. 39).

7. The Special Representative was also concerned by developments affecting the Human Rights Field Operation in Rwanda of the Office of the High Commissioner for Human Rights and was keen to determine whether some initiatives could be considered to maintain a presence of the Field Operation in Rwanda to the satisfaction of the Government of Rwanda and of the High Commissioner.

8. The Special Representative met with high-level authorities of the Rwandese Republic, including the President of the Transitional National Assembly, the Prime Minister, the Minister of Justice, the Minister of Gender, Family and Social Affairs, the Director of the Cabinet of the President of the Republic, the Secretary-General of the Ministry of Foreign Affairs, the Secretary-General of the Ministry of Justice, the Political Advisor to the Vice-President and Minister of Defence, the Military Prosecutor General and the Head of the Legal Office of the Ministry of Defence.

9. The Special Representative also met with ambassadors and heads of diplomatic missions, including the chief of the European delegation in Rwanda.

10. In addition, the Special Representative met with the heads of United Nations agencies, the Deputy Prosecutor of the International Criminal Tribunal for Rwanda, the chief of delegation of the International Committee of the Red Cross and representatives of several national and international non-governmental organizations, including the *Collectif des Ligues et Associations de Défense des Droits de l'Homme*.

11. The Special Representative would like here to extend his warm thanks to the Resident Coordinator and United

Nations Development Programme Resident Representative in Rwanda who provided him with all possible assistance during his stay in Rwanda. He would also like to express his gratitude to the human rights officer in the Office of the High Commissioner for Human Rights at Geneva, who greatly helped him in the preparation of this report.

III. Observations

A. Closure of the Human Rights Field Operation in Rwanda

12. Although discussions regarding the status of the United Nations Human Rights Field Operation in Rwanda did not come directly within the mandate of the Special Representative, he was concerned by developments which could put into question the presence of the Operation. Indeed, on 7 May 1998, the Government of Rwanda had requested the suspension, pending further review, of the Operation's activities.[1]

13. As reported by the Special Representative to the Commission on Human Rights in February 1998, the monitoring activities of the Operation had resulted in a tense relationship with the Government of Rwanda. In all meetings with the Special Representative, Government officials recalled that the intention of the Government at the outset was to invite the presence in Rwanda of a United Nations human rights operation in order to encourage a sense of partnership and to help Rwandans to develop the capacity to promote human rights, rather than to bring in monitors to "police" the Government. The Government of Rwanda expressed its wish to review the mandate of the Operation so as to put more emphasis on capacity-building, technical cooperation, training and education, taking account of the progress achieved in Rwanda since 1994, in particular with the establishment of national institutions responsible for promoting and protecting human rights in Rwanda.

14. The High Commissioner for Human Rights had also proposed a review of the mandate of the Field Operation and fully supported the wishes of the Government to strengthen the capacity-building component of the Operation. Regarding the Operation's monitoring component, and as stated in her report to the General Assembly at its fifty-second session (A/52/486/Add.1/Rev.1), the High Commissioner considered that monitoring should be conceived as a means of assisting the Government to address problems, as a basis for dialogue to diagnose the needs, and as encouragement to the international community to provide the help necessary to do so. The Special Representative fully supported this approach.

15. On the basis of those legitimate and positive considerations expressed by both the Government of Rwanda and the High Commissioner for Human Rights, the Special Representative felt that an agreement could be reached regarding an adjusted mandate of the Field Operation in Rwanda. He therefore took the personal initiative during his visit to Kigali, in early June 1998, to propose to the Government of Rwanda and to the High Commissioner that a high-level meeting between the two parties should be held as soon as possible to reach a common understanding on the future of the Operation.

16. Both the Government of Rwanda and the High Commissioner were amenable to this proposal and the High Commissioner designated her Deputy, Mr. Enrique ter Horst, to proceed to Kigali on 13 July to discuss with a high-level Rwandan delegation, led by the Minister for Foreign Affairs, Mr. Anastase Gasana, a new agreement for a human rights field presence in Rwanda. Discussions ensued between the two parties in a climate of mutual respect and cooperation. However the Government of Rwanda could not accept a monitoring function for the new human rights operation in Rwanda as proposed by the delegation of the High Commissioner.

17. The negotiations thus ended on 15 July with no agreement and the Field Operation subsequently withdrew from Rwanda on 28 July. The Special Representative, together with many people in Rwanda, cannot but express his deep regret that an agreement on a new mandate for a human rights field presence could not be reached.

18. In relation to the closure of the Field Operation, the Government of Rwanda outlined a five-point human rights plan during a press conference held on 23 July. The plan consists of: (a) training national human rights monitors; (b) initiating human rights education programmes in formal and informal education; (c) providing the National Human Rights Commission with the necessary financial and technical assistance; (d) initiating a human rights public awareness campaign using media resources; and (e) establishing a national centre for human rights as an information clearing house and training centre.[2]

19. The Special Representative very much hopes that the international community will provide full support to the Government of Rwanda's initiatives in this direction. He recommends, in particular, that the National Human Rights Commission should now be given the structure and the means to play an essential role in the promotion and protection of human rights in Rwanda as decided by the

Government of Rwanda and as stipulated by the fundamental law of Rwanda.

B. Effective functioning of an independent national human rights commission

20. The Special Representative warmly welcomes the determination of the Rwandan authorities to establish their own independent National Human Rights Commission as is stipulated under the fundamental law of Rwanda. National human rights institutions can be effective mechanisms by which to translate international human rights standards into a national culture for human rights.

21. The National Human Rights Commission was established by Presidential Decree on 11 November 1997. Its seven members are to be chosen by the National Assembly on the basis of a list of 10 candidates nominated by the Government. As outlined in the Special Representative's report to the Commission on Human Rights (E/CN.4/1998/60, paras 29-39), government officials indicated their recognition of the necessity of having a full and open debate regarding the mandate and the composition of the Commission, including the means to ensure its independence and wide national support. It is with such considerations in mind that government officials had stated that the Government of Rwanda would welcome a full and open debate on the Commission in the National Assembly and had encouraged the National Assembly to make the necessary arrangements for such a debate. Ministers also assured the Special Representative that the recommendations he had outlined in November 1997 in his "Comments on the draft bill of the Government of Rwanda regarding the establishment of a national human rights commission" could then be fully considered and that the Presidential Decree could be modified as necessary before being tabled for adoption as law.

22. In this regard, the Government of Rwanda welcomed and supported the proposal of the Special Representative to organize, in cooperation with the Office of the High Commissioner for Human Rights, a public workshop on this subject, with the participation of the newly appointed members of the Commission, members of the National Assembly, members of Rwandan civil society and regional and international experts. The Government indicated to the Special Representative that the findings of the workshop would be submitted to the National Assembly and that the parliamentary debate could lead to the modification of the presidential decree entailing the adoption of a law by the National Assembly. This process would also reinforce the acceptance of the National Commission by all elements of society, which will thus perceive it as a truly independent institution at the service of all the people of Rwanda.

23. During his last two visits to Rwanda (early June and early September), Government officials assured the Special Representative that the process of establishing the list of 10 candidates for submission to the National Assembly was almost complete and that the list was being reviewed by the Office of the President. This took more time than originally foreseen because the Government was sparing no efforts to ensure that the candidates proposed to the National Assembly would be widely respected for their independence and their integrity and would reflect to the greatest extent possible the diversity and the interests of the Rwandan people.

24. The Special Representative fully supported the concerns of the Government in this regard and he underlined again the usefulness of organizing a public workshop, as described above, immediately after the members of the National Commission have been chosen by the National Assembly.

25. The Government of Rwanda is very much aware of the necessity to move forward in order to enable the National Human Rights Commission to become operational. The Government further assured the Special Representative that the utmost effort would be made to complete the process as soon as possible.

26. It is evident that such positive developments will be warmly welcomed by all national and international partners working for the good of Rwanda and will enable the international community to better support the needed technical cooperation and to provide resources necessary for the effective functioning of this national human rights institution.

C. Security conditions in Rwanda and their effects on the situation of human rights

27. Current security conditions in some countries surrounding Rwanda have drastically deteriorated, with direct implications for the security of Rwanda. The Special Representative recognizes the difficulties facing the Government of Rwanda in reducing human rights violations, eradicating impunity and implementing programmes for the development of a human rights culture.

28. Over the past year, armed groups have committed the majority of reported incidents in Rwanda. These incidents were reported to have occurred primarily in north-western

Rwanda, but have also been reported more recently in central Rwanda. Attacks have been carried out with alarming impunity, perpetrators have rarely been apprehended, and surviving victims of attacks have often been left destitute. Principal targets were communal offices, schools, public transportation vehicles, and detention centres. Most attacks were targeted on settlements where the primary victims were mainly returned 1959 refugees (old case-load returnees) from the former Zaire or Uganda, but also survivors of genocide. To a lesser degree, local authorities or persons believed to inform and collaborate with the Rwandan Patriotic Army (RPA) were also targets.

29. It is widely believed that the armed groups comprise *interahamwe* militia, elements of the former army (*Forces armées rwandaises*) and possibly recruits from the former Zairian army. Members of the local population are also believed to have joined the insurgency, sometimes through coercion or force. Many characterize the insurgency as conducted by *interahamwe* extremists, and believe their aim is to continue the genocide.

30. Indeed the methods employed in recent attacks reflect those used in the genocide. Following large attacks, during which the local population was encouraged or forced to participate, victims were mutilated and had injuries similar to those seen on genocide survivors. The attackers were indiscriminate in the targets of their killings: women, children and the elderly were not spared.

31. Armed groups have attacked numerous detention centres over the past year, apparently to release detainees. The ensuing confrontations with security forces have often resulted in the deaths of the detainees. In several incidents, detainees have returned to the detention centres of their own volition, apparently out of fear for their physical security.

32. Since October 1997, the Field Operation has recorded an increase in attacks by armed groups, both in frequency and intensity.[3] In response to those attacks, there has been an increased military presence in the north-western prefectures. The majority of right-to-life violations committed by State agents have occurred during counter-insurgency operations of the Rwandan Patriotic Army, resulting in the deaths of unarmed civilians. In some cases, the killings appear to have been perpetrated in order to punish elements of the population for collaboration with the armed groups or to deter such collaboration. Other counter-insurgency measures, which have resulted in the deprivation of liberty, arbitrary arrest and detention, and possible disappearances, have also been reported. The Special Representative commends the efforts by the Rwandan military to correct, redress and prevent the recurrence of such violations. The reinforcement, in March 1997, of the Military Prosecutor's Department (*Auditoriat militaire*) increased the capacity of the Rwandan Patriotic Army to conduct internal investigations and to bring accused persons to trial. The Special Representative welcomes sentences handed down over the past year by the Military Court in which soldiers accused of causing civilian deaths were found guilty and sentenced.

33. The Special Representative deplores the continued loss of civilian lives. It is estimated that several thousand persons have been killed in the conflict since 1996,[4] many of them considered to be particularly vulnerable persons, including genocide survivors, women, children and the elderly. The targeting of unarmed civilians is a violation of international humanitarian law, in particular article 3 common to the four Geneva Conventions of 1949. According to international humanitarian law, non-combatants shall be treated humanely in all circumstances and all parties to a conflict should ensure the protection of civilians and of infrastructure essential to the survival of civilian populations.

34. The security situation has exacerbated already difficult conditions for the rural population, in particular in the north-west. Many people have moved closer to military positions for protection, creating internally displaced settlements without access to their lands for cultivation. The majority of the displaced are reported in Ruhengeri Prefecture. Government sources report 300,000 internally displaced persons throughout the country as at September 1998.

35. The Special Representative commends the efforts of all United Nations agencies present in Rwanda to assist the Government of Rwanda in coping with the emergency situation. The Special Representative also takes note of efforts by the Rwandan Patriotic Army to assist international organizations in bringing food to displaced populations. This has allowed a measure of confidence to develop between the army and the local population.

36. During his missions to Rwanda, the Special Representative noted the increasing climate of fear caused by the tensions in the north-west. Many killings are believed to be ethnically motivated. However, it is becoming more difficult to determine the real motive behind the murders. There is an increasingly complex matrix of motives, intertwining past crimes, frustration over the lack of security, land conflict, theft and personal vengeance. In order to re-establish the rule of law and build foundations for a just society, the rights of victims must be heard.

37. The Special Representative remains concerned about increasing reports of alleged disappearances. Many reports of missing persons originated in the north-west, following

cordon-and-search operations conducted by the Rwandan Patriotic Army. Some of these persons had been detained in military prisons or other military detention centres without the knowledge of their families.

38. Reports of arbitrary arrests and possible disappearances also increased in the greater Kigali area, where military and police identity card checks have become more frequent.

39. Recent developments in the Democratic Republic of the Congo, affecting the entire Great Lakes region, are of increasing and alarming concern. The diversion of precious resources to conflict represents yet a further tragedy in a region already devastated by the repercussions of the 1994 genocide. The Special Representative fully supports declarations by the United Nations High Commissioner for Human Rights urging regional leaders to work towards a peaceful solution by the conflict, and for all parties to ensure the protection of the civilian population, and to respect the human rights of all persons.[5] Particularly shocking is the persecution of individuals based upon ethnicity.

D. Status of the judicial system

40. A crisis situation continues to exist in the justice sector. Present structures are not sufficiently equipped to deal adequately, within a reasonable time, with the civil and criminal cases against persons accused of genocide. In essence, a functioning judicial system has been installed, representing a significant improvement over the situation four years ago. However, all levels of the judicial system continue to suffer from inadequate resources, lacking sufficient numbers of suitably qualified personnel and material equipment. Currently available resources have tended to be committed almost entirely to prosecutions for participation in the 1994 genocide, to the detriment of other aspects of criminal and civil justice, which remain in dire need of human and material resources.

41. The Special Representative greatly welcomes the efforts of the Government of Rwanda to address the problems related to the administration of justice, and its taking a number of concrete steps in this area.

42. An area of improvement is the use of the Confession and Guilty Plea procedure. This procedure was established by the 1996 Genocide Law, and allows eligible accused persons to confess and plead guilty in exchange for a reduced sentence. Government sources stated that at least 7,000 detainees have indicated their intention to use the procedure to date, in comparison with only 500 in 1997, which had raised doubts whether the procedure would effectively lead to a significant reduction in the detainee population. As the process is facilitated, the procedure may be more frequently invoked. While this development is positive in the long run, it may create more pressure on the prosecution in the short term. Detainees who plead guilty may implicate others, requiring investigation and a closer examination of evidence.

43. The Public Prosecutor's offices (*parquets*) have been somewhat strengthened with the recent training and deployment of 400 judicial police inspectors throughout the country. However, the preparation of these inspectors could be improved with further instruction, which could include additional training on human rights standards and investigative methodology.

44. Improvements in the functioning of the Public Prosecutor's office and in its capacity to establish case files have created an increased demand on the courts. Further training and deployment of judges for Courts of First Instance (*Juges de première instance*) and court clerks (*greffiers*) are in particular need. The Government of Rwanda is currently considering alternative strategies for dealing with the large genocide caseload, including the transfer of genocide cases of certain categories[6] from the Court of First Instance (*Tribunaux de première instance*) to lower level Canton Courts (*Tribunaux de canton*) and to the ancient and traditional communal justice system, called *gachacha*. Should this strategy be implemented, a reassessment of training and capacity-building needs would be required.

45. The Office of the Prosecutor General has initiated the process of group trials in an attempt to alleviate the burden on the judicial system. The first such trial was initiated on 27 February and completed on 5 June 1998. The Specialized Chamber of the Byumba Court of First Instance tried 51 persons accused of various degrees of participation in the genocide under one case. This enabled the prosecution to clearly establish the course of events and the degree of participation of each defendant. While the individual nature of the legal process must not be compromised, human rights organizations agree that this approach, if used judiciously, could provide for the more coherent and speedy trial of persons accused of genocide and crimes against humanity.

46. The Special Representative notes the establishment of a *Bureau de consultation et de défense* by the Rwandan Bar as a positive development towards ensuring legal representation to parties in criminal and civil cases. There has been an increase in the number of genocide cases where the accused had access to legal counsel, most of which was

provided by the Belgian-based international non-governmental organization, Avocats sans Frontières (ASF). The Danish Centre for Human Rights has initiated programmes to train and deploy Rwandan judicial defenders for genocide trials. Although there has been overall progress in judicial representation for the defence in genocide trials, representation has been unevenly distributed. Owing to security conditions, ASF does not operate in the prefectures of Ruhengeri, Gisenyi or Kibuye. Many Rwandan lawyers are also hesitant to accept cases in those prefectures.

47. Nearly half of all civil parties had legal representation during the first quarter of 1998, an improvement over the previous year. Legal representation was provided in part by the Rwandan Bar Association and in part by foreign lawyers.

48. In relation to the independence of the judiciary, the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers noted in his last report:

> "The prevailing political situation in Rwanda has made it difficult for an independent and impartial justice system to function effectively. The lack of adequate resources, both financial and human, is a matter of serious concern." (E/CN.4/1998/39)

In the light of other cases brought to the attention of the Special Representative, including the suspension of the President of the *Cour de Cassation* on 22 March, it should be stressed that the independence of the judiciary is a fundamental prerequisite in the eradication of impunity and in maintaining the rule of law in any country. The Special Representative strongly encourages the Government of Rwanda to spare no efforts to ensure and preserve the independence of the judiciary.

49. The Special Representative commends the rulings handed down by the International Criminal Tribunal for Rwanda. It is hoped that those verdicts will serve as the first step on the path to eradicating impunity. On 2 September 1998, the Tribunal found Jean-Paul Akayesu, former district mayor (bourgmestre) of Taba commune, Gitarama Prefecture, guilty of genocide and crimes against humanity, including murder, torture and rape. This constitutes the first interpretation of the 1948 Genocide Convention by an international court. On 4 September 1998, former Rwandan Prime Minister Jean Kambanda was sentenced to life imprisonment for his role in the 1994 genocide. Kambanda received the maximum sentence, in spite of his guilty plea, because of his degree of responsibility and the gravity of his crimes.

E. Status of the penitentiary system

50. As at September 1998, an estimated 125,000 persons were being held in detention centres throughout the country.[7] This represents a slight decrease from the end of 1997. The reduced number of detained persons represents, for the first time, a positive development in the detention situation. Also, the rate of new arrests has significantly decreased compared to 1997. However, many of the persons previously detained in communal detention centres (*cachots*) were transferred to central prisons, thus overpopulating and overburdening the prisons even further.

51. There has been a noted increase in the number of persons released on humanitarian grounds (the elderly, the seriously ill, and minors) and on the basis of insufficient evidence to sustain a prosecution. Despite several reported incidents of violence committed against those released, it was indicated that, generally, people are increasingly willing to accept the released persons back into the community. The Special Representative wishes to stress the need for adequate measures to ensure their security and to facilitate their reintegration into society.

52. The total number of detainees in communal and military detention centres has fallen from an estimated 50,000 at the end of 1997 to approximately 40,000 in September 1998. There are several reasons for this reduction. The primary reason is the massive transfer of detainees from communal *cachots* to central prisons. Reduction of the communal detainee population, coupled with efforts to improve conditions in the most disastrous *cachots*, has led to an improvement of detention conditions in many communal centres. Still, progress has not been uniform – vast improvements can be seen in some prefectures while dire conditions exist in other regions.

53. The total central prison population has risen to a peak of more than 84,000, compared to 70,000 at the end of 1997, mainly owing to the mass transfer of detainees from communal *cachots*. Overall prison capacity in Rwanda is less than half the actual population in detention. Severe overcrowding has been alleviated only partially by attempts to increase prison capacity, and the implementation of supervised work programmes, which allow detained persons some time outside the prison during the day.

54. Detention centres still greatly exceed their intended capacity and are characterized by a lack of adequate food and water, poor ventilation and lighting, and a lack of sanitary facilities. These deplorable conditions, combined with severe overcrowding and excessive periods of imprisonment (many have been detained for up to four years

without trial) have caused an increase in diseases (such as tuberculosis), and in overall prison mortality rates.

55. The Special Representative remains extremely concerned by the prevailing conditions of detention in Rwanda and calls on the international community to assist the Government of Rwanda in seeking immediate and long-term solutions.

F. Economic and social factors

56. The needs of Rwanda are gradually shifting, from immediate emergency assistance in coping with the aftermath of the 1994 genocide to more long-term capacity-building and development cooperation. Women and children especially have suffered from the effects of the genocide. Their plight can be eased only through concerted long-term efforts, which calls for an increased focus on the role of civil society in promoting and ensuring a culture of respect for human rights and the rule of law. In particular, support to non-governmental organizations working in the field of human rights must be provided urgently.

57. Statistics reflect a persistent and negative effect of the genocide on social indicators, suggesting a difficult path to reconstruction. Life expectancy has dropped 4.5 years since 1991, infant deaths per thousand have risen from 87 in 1991 to 131 in 1998, and maternal deaths during childbirth have increased almost fourfold in the same period.[8]

58. The situation of Rwandan women remains particularly precarious. Traditional inequalities between men and women have been exacerbated by the repercussions of the genocide in almost all sectors. Females headed more than 40 per cent of all households in 1996, compared to 25 per cent in 1991. This reflects, in part, the large number of families affected by the detention situation or by the genocide and armed conflict. The female literacy rate is less than 50 per cent, most female heads of household have virtually no schooling, and only 25 per cent of all students in higher education are female.[9]

59. A large number of women continue to suffer from the traumatic consequences of sexual violence committed during the genocide. Rape victims are ostracized from their community and face extreme prejudice when seeking help. Victims of sexual violence are often victims of non-sexual violence as well; many rape victims from the Rwandan genocide have lost husbands and other family members, finding themselves without social support structures. The Special Representative wishes to call attention once again to the recommendations of the Special Rapporteur on violence against women in her last report on Rwanda. These include bringing to justice perpetrators of sexual violence, and providing specific assistance for women victims of violence, including income-generating activities, medical care and social assistance.[10]

60. The sentencing of the former district mayor of Taba commune, Jean-Paul Akayesu, is an initial step in recognizing the extent of sexual violence against women. The decision of the International Tribunal recognized that sexual violence was an integral part of the genocide perpetrated in Rwanda.

61. The Special Representative takes note of the vulnerable status of children in a post-genocide society. He recalls the obligations of the State to protect children's rights under the Convention on the Rights of the Child, which Rwanda has ratified. The Government of Rwanda has been cooperating with UNICEF and other agencies in prioritizing the cases of minors accused of genocide currently in detention. Judicial investigators and judges have received specialized training in processing those cases. Progress has been slow in providing defence lawyers in cases of minors accused under the genocide law, but the number of children under 14 years of age detained in the prisons has fallen sharply. The Government has also made efforts to ensure a separation of minors from adults in the prisons; others have been released on parole or transferred to re-education centres. Nevertheless, incidents of sexual violence and prostitution involving young detainees were reported.

62. The strength of civil society will be a key indicator in the promotion and respect for human rights. National non-governmental organizations are in continued need of assistance in capacity-building, particularly basic training, logistics and material assistance. Many of these organizations suffer from a lack of effective mechanisms for collective cooperation, and are divided by their respective positioning in relation to different societal groups and political affiliations.

63. The withdrawal of the Field Operation also meant the loss of an important partner for civil society organizations in the field of human rights. The cooperation of these organizations with international partners should continue to be encompassed under a comprehensive program.

64. The development of civil society groups, and the cooperation of these groups with the National Human Rights Commission once it becomes operational, will form a crucial part of the process of reconstruction currently under way in Rwanda.

IV. Conclusions and recommendations

65. The aim of this report is to assist the Government of Rwanda in the promotion and protection of human rights. The Special Representative hopes that a transparent report on developments in Rwanda will help the Government and the international community to enhance cooperation in the field of human rights.

66. The Special Representative wishes to recognize the contributions of the Human Rights Field Operation to the promotion and protection of human rights in Rwanda. The staff has shown dedication and hard work over the past four years, often in difficult circumstances. The Special Representative is particularly grateful for the assistance of the Operation during his first missions to Rwanda.

67. In his report to the Commission on Human Rights (E/CN.4/1998/60), the Special Representative submitted a number of recommendations to the Government of Rwanda on the basis of his first missions to Rwanda. Those basic recommendations remain valid, but a number of important developments have occurred since that time. To take into account those developments and further discussions he has held during his missions in early June and early September, the Special Representative submits the following main conclusions and recommendations.

68. Given the prevailing circumstances, it is more than ever essential that the Government of Rwanda and the international community enhance their cooperation to maintain and develop the most suitable conditions for the promotion and protection of human rights in Rwanda.

69. In this connection, the Special Representative urges the Government of Rwanda and the National Assembly of Rwanda to take appropriate action to enable the National Human Rights Commission, created by Presidential Decree on 11 November 1997, to be fully established and to begin functioning effectively and independently in accordance with the fundamental law of Rwanda.

70. The Special Representative calls on the United Nations High Commissioner for Human Rights to provide all the necessary support for the organization of a public workshop on the newly established National Human Rights Commission once the members of the Commission have been chosen by the National Assembly from a list of candidates submitted by the Government. Participants in the workshop would include the newly appointed members of the Commission, members of the National Assembly, members of Rwandan civil society, and regional and international experts. The findings of the workshop would be submitted to the National Assembly for a parliamentary debate that could lead to the adoption of a law to further strengthen the functioning, terms of reference and independence of the National Human Rights Commission.

71. The Special Representative further urges the international community to provide all necessary technical cooperation and appropriate resources to support the effective functioning of the National Human Rights Commission.

72. The Special Representative notes that while the fundamental structures of the civilian and military justice system are now essentially in place, there is still an urgent need for the international community to sustain coordinated efforts to adequately address the daunting challenges facing the Rwandan judicial system. A strategic framework in partnership with the Government of Rwanda, with clearly identified objectives, is necessary for the successful establishment of the rule of law.

73. The Special Representative notes that government efforts to speed up the initial stages of prosecution have been effective, such as the increasing number of accused persons who indicated their intention to use the Confession and Guilty Plea procedure. This in turn underlines the need for better training of police inspectors in human rights standards and investigation techniques. In addition, further training and deployment of judges and court officials should be undertaken.

74. The Special Representative welcomes the release of detained persons on humanitarian grounds, and notes the improved conditions in several *cachots*. He hopes that adequate measures to facilitate the reintegration of released persons into society will be in place shortly. However, severe overcrowding in prisons is still a matter of grave concern, and the reported increase of the mortality rate in prisons is alarming. The Special Representative urges the Government of Rwanda and the international community to continue efforts to improve conditions of detention and to quickly seek an appropriate solution to reduce the number of persons in detention.

75. The events and consequences of the genocide need to be properly documented to assist in the process of national reconciliation. The international community should establish as a priority programmes to address the problems of genocide survivors.

76. The Special Representative commends the verdicts of the International Criminal Tribunal for Rwanda and hopes the sentences will serve the process of national reconciliation. The Special Representative urges the

international community to continue to support and cooperate with the Tribunal.

77. The Special Representative urges the international community to condemn forcefully and unequivocally the insurgent forces which have shown themselves bent on resuming the programme of genocide launched in 1994, destabilizing efforts to bring peace and security to Rwanda and sabotaging the efforts of the Government to foster national reconciliation.

78. The Special Representative strongly encourages and supports the efforts of the Government to prosecute violations committed by some elements of its armed forces.

79. The Special Representative wishes to bring renewed attention to the recommendations of the Special Rapporteur on violence against women. In accordance, the Special Representative urges Rwandan courts to take concrete steps to ensure adequate prevention, investigation and criminal and civil redress, including compensation of victims. Social assistance programmes for women victims of violence, including income-generating activities, education grants and medical care should be widespread.

80. The Special Representative notes the vulnerable status of children and calls on the international community to assist Rwanda in ensuring that children survivors of the genocide receive appropriate trauma counselling and that all children have access to education. The Special Representative supports the efforts of the Rwandan judiciary to process cases against minors accused of genocide in a timely manner, and to take special consideration of their age and other special circumstances.

81. Civil society, in particular human rights groups and national non-governmental organizations, play an important role in the reconstruction of justice and the establishment of a rule of law in Rwanda. This role will be enhanced with the effective functioning of the National Human Rights Commission. The Special Representative welcomes therefore the efforts of the Government to include representatives of various elements of civil society in its campaign to promote a human rights culture in Rwanda based also on traditions of the country. The Special Representative encourages partners of Rwanda to provide Rwandan human rights groups and organizations with financial support and technical assistance.

82. The Special Representative calls on the international community to heed alarming developments, in particular those pertaining to the escalation of violence in the region. Lack of action could result in the loss of many lives in racial conflict. A determined effort by the international community is urgently needed to ensure the protection of victims and to condemn incitement to racial hatred.

83. The Special Representative encourages the Government of Rwanda to meet with its reporting obligations in relation to the international human rights conventions that Rwanda has ratified.

84. Finally, the Special Representative urges partners of Rwanda to initiate an integrated and comprehensive programme of assistance to support the efforts of the Government of Rwanda to promote and protect fundamental human rights and provide for the well-being of the people of Rwanda in conditions of peace and security.

Notes

[1] For a summary of the activities of the Field Operation and the review process, see the report of the High Commissioner to the General Assembly (A/53/367).

[2] Press conference of Anastase Gasana, Minister for Foreign Affairs, Kigali, 23 July 1998.

[3] More information on the human rights situation in Rwanda is available in the report of the High Commissioner to the Commission on Human Rights (E/CN.4/1998/61), covering the period from March to December 1997.

[4] A spokesperson for the International Committee of the Red Cross estimated the death toll to be 1,000 per month in the summer of 1997. The Field Operation reports a deterioration of the situation since October 1997. This would give a conservative estimate of 15,000 casualties since early 1997.

[5] Statement by the High Commissioner for Human Rights, 7 August 1998.

[6] Persons accused of crimes of genocide are grouped into four categories. Organizers, planners or instigators of genocide are category 1. Persons who acted in positions of authority, were notorious murderers, or who committed acts of sexual torture are also in the first category. Category 2 includes persons who committed intentional homicide. Category 3 includes persons who committed serious assaults that did not lead to the death of the victim. Finally, category 4 gathers persons who committed offences against property.

[7] Figures provided by the International Committee of the Red Cross in Rwanda.

[8] Source: World Bank Poverty Update, 1998.

[9] Statistics provided by United Nations Development Programme in Rwanda.

[10] See the recommendations of the Special Rapporteur on violence against women in her report on her mission to Rwanda (E/CN.4/1998/54/Add.1). See also the recommendations of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights in her report on systematic rape (E/CN.4/Sub.2/1998/13).